

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**LOHN SCHROER,**

**Plaintiff,**

**vs.**

**BALDWIN FILTERS, INC.,**

**Defendant.**

**8:13CV101**

**ORDER**

This matter is before the court on the plaintiff's Statement of Objections to Magistrate Judge's Order on Plaintiff's Motion to Remand (Objection) ([Filing No. 22](#)). The plaintiff filed a brief ([Filing No. 23](#)) in support. The defendant filed a brief ([Filing No. 25](#)) in opposition. The plaintiff did not file a reply.

**BACKGROUND**

This action arises from Lohn Schroer's (Schroer) termination from Baldwin Filters, Inc. (Baldwin). See [Filing No. 1-1](#) - Complaint. On March 27, 2013, Baldwin removed this action from the District Court of Buffalo County, Nebraska, to the United States District Court for the District of Nebraska. See [Filing No. 1](#) - Notice of Removal. On April 26, 2013, Schroer filed a motion to remand. See [Filing No. 9](#). On May 13, 2013, the undersigned entered a Findings and Recommendation recommending Judge Joseph F. Bataillon deny Schroer's motion. See [Filing No. 16](#) - Findings and Recommendation. Subsequently, on May 17, 2013, the parties consented to jurisdiction before a magistrate judge. See [Filing No. 17](#) - Planning Report p. 1. Despite the consent, on May 28, 2013, Schroer filed the Objection to the Findings and Recommendation pursuant to Civil Rules of the United States District Court for the District of Nebraska 72.2. See [Filing No. 22](#) - Objection; [NECivR 72.2](#). However, the court will consider Schroer's Objection as a motion for reconsideration under Fed. R. Civ. P. 60 because the parties consented to jurisdiction before the undersigned magistrate.<sup>1</sup>

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<sup>1</sup> The court notes the parties filed an Amended Planning Report on June 10, 2013, consenting to jurisdiction before the undersigned judge. See [Filing No. 26](#) - Amended Planning Report p. 1.

### **ANALYSIS**

Under Rule 60(b) “the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; . . . [or] (6) any other reason that justifies relief.” Fed. R. Civ. P. 60. Schroer argues although the court in the Findings and Recommendation summarized Schroer’s assertion that trial in Omaha, Nebraska, is an inconvenient forum for this action, the court did not address the propriety that assertion. **See** [Filing No. 22](#) - Objection; [Filing No. 23](#) - Brief. The court previously considered Schroer’s arguments in support of remand. The court found inconvenient forum and issues of first impression under Nebraska law did not provide a legal basis for remand. The plaintiff fails to provide additional factual or legal support for remand not previously asserted. The court continues to find the grounds asserted do not support remand. Accordingly,

### **IT IS ORDERED:**

1. Schroer’s Statement of Objections to Magistrate Judge’s Order on Plaintiff’s Motion to Remand ([Filing No. 22](#)) is overruled and denied.
2. The Findings and Recommendation ([Filing No. 16](#)) is adopted as a final order.
3. Schroer’s Motion to Remand ([Filing No. 9](#)) is denied.

Dated this 11th day of June, 2013.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge